

REMARKS/ARGUMENTS

Claims 1-22 were pending, examined, and rejected. The Examiner rejected claims 1-22 under 35 USC § 102(e) as being unpatentable over Yoshida. (U.S. Patent Application Publication No. 2004/0049700 A1), hereinafter "Yoshida."

Applicant has amended Claims 2, 9, 15-18, and 20-22. Claims 1-22 remain pending.

Claim rejections under 35 USC § 112, second paragraph

The Examiner rejected Claims 15-22 under Section 112, second paragraph as being indefinite. Applicant has reworded the claims as including computer executable instructions (software) and amended where needed to replace "circuitry operable" with "instructions for." Applicant believes that Claims 15-22 as presented herein are fully compliant with the requirements of Section 112, second paragraph. Accordingly, Applicant respectfully requests the Examiner to reconsider and withdraw the Section 112 rejections.

Claim rejections under 35 USC § 102(e)

The Examiner rejected claims 1-22 under 35 USC § 102(e) as being unpatentable over Yoshida.

With respect to independent Claim 1, Applicant respectfully traverses the rejection because the cited reference does not teach expressly or inherently all claim elements. Claim 1 recites, for example, receiving a request from said backup applications to download said master file. The Examiner indicates that this element is taught by Yoshida at paragraph [0025] lines 1-6. Applicant respectfully disagrees. Paragraph [0025] of Yoshida describes Yoshida's backup clients (14) sending status information, including available storage capacity information, to Yoshida's backup control server (20). Yoshida then describes its backup control server (20) using the status information to determine which of Yoshida's user PCs (10) can be used as a location of distributive storage.

Applicant respectfully submits that Yoshida's description of its backup control server gathering information including disk capacity information from a set of backup clients does not

anticipate a claim element reciting receiving a request from a set of backup applications to download a master file. The master file referred to, as recited earlier in Claim 1, includes information regarding a list of systems available to store backup files and an amount of available disk space to store backup files for each system available to store backup files. Not only does Yoshida fail to teach its backup clients requesting a download of a master file indicative of system-wide backup storage capacity, Yoshida fails to teach its BC clients requesting a download of any information from the backup control server. Accordingly, because the cited reference does not teach all claim elements either expressly or inherently, Applicant respectfully requests the Examiner to reconsider and withdraw the Section 102(e) rejection of Claim 1 and its dependent Claims 2-6, which were also rejected as being anticipated by Yoshida.

With respect to independent Claim 8, Applicant respectfully traverses the anticipation rejection because the cited reference does not teach expressly or inherently a computer program product comprising programming steps including receiving a request from a backup application to download a master file. Again, Yoshida simply does not teach its backup clients requesting a download of a master file indicative of system-wide backup storage capacity. Accordingly, because the cited reference does not teach all claim elements either expressly or inherently, Applicant respectfully requests the Examiner to reconsider and withdraw the Section 102(e) rejection of Claim 8 and its dependent Claims 9-14, which were also rejected as being anticipated by Yoshida.

With respect to independent Claim 15, Applicant respectfully traverses the anticipation rejection because the cited reference does not teach expressly or inherently a system as recited including computer executable instructions for receiving a request from a backup application to download a master file. Again, Yoshida does not teach its backup clients requesting a download of a master file indicative of system-wide backup storage capacity. Accordingly, because the cited reference does not teach all claim elements either expressly or inherently, Applicant respectfully requests the Examiner to reconsider and withdraw the Section 102(e) rejection of Claim 15.

With respect to independent Claim 16, Applicant has made broadening and clarifying amendments in response to the Section 112, second paragraph rejection. In addition, Applicant

has amended to recite transferring a copy of the master file to the first computer in response to receiving a request for the master file. Applicant submits that Claim 16 as amended is not anticipated by Yoshida because Yoshida does not teach expressly or inherently its backup control server transferring a master file indicative of system-wide backup storage capacity to one of Yoshida's user PCs (10). As discussed above, all information regarding available backup disk capacity flows to Yoshida's backup control server. Yoshida contains no teaching of distributing this information to its user PCs (10). Accordingly, because the reference does not teach all elements of amended Claim 16, Applicant respectfully requests the Examiner to reconsider and withdraw the Section 102(e) rejection of Claim 16 as amended and its dependent claims, which were also rejected as being anticipated.

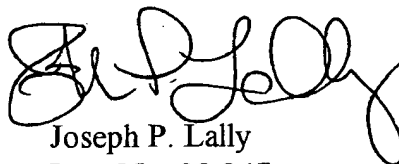
In addition to the foregoing, Applicant has amended dependent Claims 2, to clarify that selecting the two or more systems includes selecting two or more systems to receive redundant copies of the backup data. See, e.g., paragraph [0045] of Applicant's specification as published (U.S. Patent Application Publication No. 2005/0131958 A1). Applicant submits that Claim 2 as amended is not anticipated by Yoshida because Yoshida does not discuss distributing redundant copies of data to its user PCs (10). Although Yoshida does employ multiple user PCs (10) to backup up a data file, it is apparent from Yoshida FIG. 3 that distinct portions 115 of the original data file 100 are being stored in each of the user PCs (10). Note, for example, that each element 115 in FIG 3 of Yoshida has a unique designation (P₁', P₂', etc.). Accordingly, because the cited reference does not teach storing redundant copies of backed up data on its user PCs, Applicant submits that Yoshida does not anticipate Claim 2 as amended and Applicant respectfully requests the Examiner to reconsider and withdraw the rejection. Analogous remarks apply to amended dependent Claims 9 and 17.

CONCLUSION

The paper contains a reply to each ground of objection and rejection set forth in the Office Action. Applicant respectfully requests reconsideration and favorable action on all pending

claims. If the Examiner has any questions, comments, or suggestions, the undersigned attorney would welcome and encourage a telephone conference at 512.428.9872.

Respectfully submitted,



Joseph P. Lally
Reg. No. 38,947

ATTORNEY FOR APPLICANT(S)

LALLY & LALLY, L.L.P.
P.O. Box 684749
Austin, Texas 78768-4749
512.428.9870
512.428.9871 (FAX)

JPL/mm